

December 22, 1936.

Mr. W. P. Clements,  
Casa Grande, Arizona.

My dear Mr. Clements:

Referring to your letter of December 17, regarding the question as to whether the filing of an application for an agricultural lease would automatically cancel an existing grazing lease, I am sorry to say that you have been misinformed.

Our Supreme Court has held in many cases that a valid, outstanding grazing lease upon State lands, where the lessee is paying the rents and performing all the necessary conditions required by law and the terms of said lease, is an enforceable contract and cannot be legally cancelled unless by default of the lessee or by mutual consent, the contract being binding between the State and the lessee. However, Chapter 98, Laws of 1933, provides for the reappraisement and classification of lands each year and provides that no existing lease shall be amended until the classification of the land is made.

Under this provision, it is my opinion that if the State Land Commissioner should classify land upon which an existing grazing lease covers as agricultural land, then such lessee must either pay an agricultural rental for such land or forfeit the same. This statute has never been tested out, but I am quite sure that in the event the land should be classified as agricultural, the holder of the grazing lease would either have to pay the agricultural rental or give up his lease.

I think it would be advisable for you to file an agricultural lease on the lands you are interested in, and this would cause the Commissioner to make an investigation, which will probably end in classifying the land as agricultural land. In the event that he should classify the land as agricultural land, and the present grazing lessee should refuse to pay the agricultural rental, then most likely his lease would be cancelled for non-payment and your application be accepted.

As stated before, there is no provision automatically cancelling a grazing lease upon the filing of an application for an agricultural lease.

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Mr. W. P. Clements

-2-

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If I can be of any further service, please do not hesitate to call upon me.

With my kindest regards, I remain,

Sincerely yours,

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